

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

United States District Court  
Southern District of Texas

**ENTERED**

May 03, 2017

David J. Bradley, Clerk

JAMES VAN WINKLE, §  
Plaintiff, §  
vs. § CIVIL ACTION H-16-2694  
PINECROFT CENTER, L.P., ET AL., §  
Defendants. §

**OPINION AND ORDER**

Pending before the Court in the above reference suit, grounded in the Americans with Disabilities Act, 42 U.S.C. §12101, *et al.*, are Plaintiff James Van Winkle's motion for entry of Clerk's default (instrument #19) against Defendant TRU 2005 RE I, L.L.C. and Plaintiff's notice of voluntary dismissal without prejudice under Rule 41(a)(1)(A)(i) (instrument #16) of Defendant Pinecroft Center, L.P.


After numerous extensions of time to answer the complaint, granted to TRU 2005 RE I, L.L.C., it filed its answer (#41) to the complaint on January 9, 2017. Thus the Court

ORDERS the motion for entry of default (#19) is DENIED.

Pursuant to the notice of voluntary dismissal of Pinecroft Center, L.P., d/b/a Pinecroft Partners, L.P., the Court

ORDERS that it is DISMISSED without prejudice, with each party to bear its own fees and costs.

SIGNED at Houston, Texas, this 3<sup>rd</sup> day of May, 2017.

  
MELINDA HARMON  
UNITED STATES DISTRICT JUDGE